

1 ARIZONA DEPARTMENT OF WATER RESOURCES

2 BEFORE THE DIRECTOR

3 IN THE MATTER OF THE MODIFICATION
4 OF CHAPTER 5 OF THE MANAGEMENT
5 PLAN FOR THE PINAL ACTIVE
6 MANAGEMENT AREA FOR THE THIRD
7 MANAGEMENT PERIOD FOR THE
8 PURPOSE OF ADDING A MODIFIED NON-
9 PER CAPITA CONSERVATION PROGRAM

ORDER OF PROMULGATION

8 I. INTRODUCTION

9 On December 13, 1999, the director of water resources ("Director") adopted the
10 management plan for the Pinal Active Management Area for the third management period ("Third
11 Management Plan"). At the time the Third Management Plan was adopted, A.R.S. § 45-
12 566(A)(2) provided that the plan shall include a municipal conservation program that requires
13 large municipal providers, other than large untreated water providers, to achieve reasonable
14 reductions in per capita use unless they apply for and are accepted for regulation under the Non-
15 Per Capita Conservation Program ("NPCCP"). A.R.S. § 45-566.01 provided that the NPCCP
16 shall require a large municipal provider accepted for regulation under that program to implement
17 specific conservation measures within its service area and limit its groundwater use to a specified
18 volume. Chapter 5 of the Third Management Plan contains provisions consistent with these
19 requirements, including a NPCCP in section 5-104 of the Municipal Conservation Requirements
20 and Monitoring and Reporting Requirements.

21 Legislation enacted during the 2007 legislative session (S.B. 1557, herein referred to as
22 the "2007 Legislation") amended A.R.S. § 45-566.01 to provide that the Director shall modify the
23 NPCCP in the Third Management Plan to eliminate the groundwater use limitation requirement
24 and to require large municipal providers regulated under the program to implement a public
25 education program, a metering program and one or more additional water conservation measures
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1 to be selected from a list of measures adopted in the plan. The Director is required to design the
2 modified NPCCP to achieve water use efficiency within the service areas of municipal providers
3 regulated under the program equivalent to the water use efficiency assumed by the Director in
4 establishing the per capita conservation requirements for those providers. The 2007 Legislation
5 requires all large municipal providers that are not designated as having an assured water supply
6 and that do not qualify as a large untreated water provider to submit a provider profile to the
7 Director by July 1, 2009 and to be regulated under the modified NPCCP beginning January 1,
8 2010 or the date the Director approves the provider's provider profile, whichever is later. The
9 2007 Legislation further provides that a large municipal provider designated as having an assured
10 water supply shall not be regulated under the modified NPCCP unless the provider elects to be
11 regulated under the program.

12 **II. PROPOSED MODIFICATIONS**

13 To comply with the 2007 Legislation, the Director proposes to modify Chapter 5 of the
14 Third Management Plan in the manner shown in the document attached hereto entitled "Proposed
15 Modifications to Chapter 5, Municipal Conservation Program, Third Management Plan, Pinal
16 Active Management Area, January 2008." The following is a brief description of the proposed
17 modifications.

18 1. Section 5-104 of the Municipal Conservation Requirements and Monitoring and
19 Reporting Requirements is being modified in the manner required by the 2007 Legislation. As
20 required by the 2007 Legislation, all large municipal providers that are not designated as having
21 an assured water supply and that do not qualify as a large untreated water provider will be
22 required to submit to the Director a provider profile by July 1, 2009 and begin complying with the
23 modified NPCCP beginning January 1, 2010 or the date the Director approves the provider's
24 provider profile, whichever is later. A large municipal provider designated as having an assured
25 water supply will continue to be regulated under the conservation program it was regulated under
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1 as of January 1, 2008, unless the provider notifies the Director that it elects to be regulated under
2 the modified NPCCP and submits a provider profile that is subsequently approved by the
3 Director. Section 5-104 as modified sets forth the requirements for submitting a provider profile.
4 A large municipal provider may agree to be regulated under the modified NPCCP earlier than
5 January 1, 2010 if the Director approves the provider's profile prior to that date.

6 2. Conforming changes are being made to other sections within Chapter 5 of the Third
7 Management Plan and to several appendices to Chapter 5.

8 3. Language within sections 5.4.1 and 5.4.2 of the Third Management Plan is being
9 modified to reflect recent amendments to the Department's Assured and Adequate Water Supply
10 Rules.

11 **III. ORDER OF PROMULGATION**

12 **IT IS HEREBY ORDERED:**

13 1. That the proposed modifications described in Section II above and shown in the
14 document attached hereto entitled "Proposed Modifications to Chapter 5, Municipal Conservation
15 Program, Third Management Plan, Pinal Active Management Area, January 2008," are
16 promulgated as proposed modifications to the Third Management Plan pursuant to A.R.S. § 45-
17 572.

18 2. That a public hearing on the proposed modifications shall be held at a location in
19 the Pinal Active Management Area. Notice of the public hearing shall be given as provided in
20 A.R.S. § 45-570.

21 GIVEN under my hand and the Official Seal of the Arizona Department of Water
22 Resources this 9th day of January, 2008.

23 

24 Herbert R. Guenther
25 Director

26 Arizona Department of Water Resources

(SEAL)